

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
JULY 10, 2019**

CALL TO ORDER 6:01 PM	A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at South Campus Building, 40 11 th Street W, Ste. 200, Kalispell, Montana. Board members present were Dean Sirucek, Greg Stevens, Sandra Nogal, Jeff Larsen, Mike Horn, Ron Schlegel, and Elliot Adams. Jim Thompson was absent and Keven Lake had an excused absence. Donna Valade, Rachel Ezell, Erik Mack, and Mark Mussman represented the Flathead County Planning & Zoning Office. There were 13 members of the public in attendance.
APPROVAL OF MEETING MINUTES 6:02 PM	Sirucek made a motion, seconded by Nogal, to approve the June 12, 2019 meeting minutes. Motion passed on a 5-0 roll call vote. Larsen and Horn abstained.
PUBLIC COMMENT <i>(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)</i> 6:02 PM	None
DISCLOSURE OF ANY CONFLICT OF INTERESTS 6:02 PM	Nogal disclosed that she would not be able to participate in FPP-19-09.
SLITERS LAKESHORE VARIANCE (FLV-19-02) 6:03 PM	A request by Hafferman Engineering, Inc. on behalf of the Sliter family for a Major Lakeshore Variance to the fill standards of Flathead County Lake and Lakeshore Protection Regulations (FCLR), specifically Sections 4.3F(2)(h)(2), (5), and (6). The applicant is seeking to construct improvements to a "Modified Dynamic Equilibrium Beach." The subject property is located south of Somers Road in Somers, MT.
STAFF REPORT 6:03 PM	Erik Mack reviewed staff report FLV-19-02 for the board.

**BOARD
QUESTIONS
6:06 PM**

None

**APPLICANT
PRESENTATION
6:06 PM**

Kurt Hafferman, 860 N. Meridian S B21, represented the applicants and Dr. Mark Lorang. He said they intended to transition this property in to a public access. They recognized there were more economic ways to develop the property but wanted to restore Somers Beach in to a public access. He discussed their permitting process; with the intention of presenting it to the stakeholders when all was in place.

They were in agreement with the staff report. They intended to do the work in the winter as to not disturb the lakeshore (per one of the conditions).

He felt that a public beach was a bold idea but were working with multiple entities to try to move it forward.

**BOARD
QUESTIONS
6:09 PM**

None

**AGENCY
COMMENTS
6:10 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC
COMMENT
6:10 PM**

Yueh Chuang, a representative from BNSF in Helena, said BNSF supported working together with the Sliter family and stakeholders to establish public access to Flathead Lake near their property in Somers. BNSF had not seen the applicants' variance package but had heard there may be proposed access points along or near BNSF shoreline, near the environmental remedy restored wetlands. BNSF made clear that they would not permit access along those areas or otherwise jeopardize their prior medial actions. He pointed out alternative routes were available to the applicants which posed less risk to the environmental remedy and restored wetlands. They would certainly work with the applicants and consultants on the alternative routes.

Richard Kehr, 48 Prairie Falcon Ct., represented a collaborative group whom had an interest in extending public access to Flathead Lake in the long term. They supported this project in seeing the shoreline restored as well as some long term access for the public to recreate on the lake. He was in support of the variance.

**APPLICANT
REBUTTAL/
COMMENTS
6:13 PM**

Hafferman said they were familiar BNSF's concerns regarding the access. They did not want to change the application at the time but understood a granted permit did not give them access. Access would have to be gained and they understood they would have to go back to BNSF and work with them. It

was not a deal breaker for the project. It had been an economic decision to see if they could get the least expensive access and, if it was not possible, they would go forward with the more expensive access which would require them to go across wetlands. They were trying to avoid that. They understood that they still needed to work out the access. Dr. Lorang had written the report showing two different accesses.

Larsen confirmed with Hafferman that they would be willing to work with Burlington Northern either way.

Nogal asked for clarification regarding if there was public funding or if the Sliter family would be funding the project. Hafferman replied, once they received the permits, it would be a part of the package presented to the stakeholders, and then funding would be available to complete the project.

**STAFF
REBUTTAL/
COMMENTS
6:15 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FLV-19-02)
6:15 PM**

Sirucek made a motion, seconded by Schlegel, to adopt staff FLV-19-02 as findings of fact.

**BOARD
DISCUSSION
6:15 PM**

None

**ROLL CALL TO
ADOPT F.O.F.
(FLV-19-02)
6:15 PM**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FLV-19-02)
6:15 PM**

Sirucek made a motion, seconded by Schlegel, to recommend approval of FLV-19-02 to the Board of County Commissioners.

**BOARD
DISCUSSION
6:16 PM**

Sirucek discussed how the Conservation District had participated in this project through a grant to the Flathead Land Trust for some of the initial design by [Dr. Mark Lorang]. This occurred a couple of years ago and the funds used were part of the mitigation funds from the Kerr Dam lawsuit. In an indirect way, there were some public funds that were put aside for the

beginnings of this project and a number of agencies/organizations that were looking forward to seeing something happen in the long term.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FLV-19-02)
6:17 PM**

The motion passed unanimously on a roll call vote

**JEWEL BASIN
INVESTMENTS
LLC
ZONE CHANGE
(FZC-19-07)
6:17 PM**

A zone change request from Sands Surveying, on behalf of Ronald K. & Carol J. Pierce and Jewel Basin Investments, LLC for properties in the Bigfork Zoning District. The proposal would change the zoning on property located at 7650 Highway 35 from split zoned *SAG-10 (Suburban Agricultural)* and *R-2 (One Family Limited Residential)* to *R-2 (One Family Limited Residential)* and the property located at 7664 Highway 35 from *SAG-10 (Suburban Agricultural)* to *R-2 (One Family Limited Residential)*. The total acreage involved in the request is approximately 9.87 acres (Tract 5C contains 8.38 acres and Lot 1 of Amended Lot 1 Croskrey Court contains 1.49 acres).

**STAFF REPORT
6:18 PM**

Donna Valade reviewed staff report FZC-19-07 for the board.

**BOARD
QUESTIONS
6:21 PM**

None

**APPLICANT
PRESENTATION
6:21 PM**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicants. He was in support of the staff report and findings. Jewel Basin Investments had the smaller property in the corner of the subject properties [in which he pointed out on the overhead]. He discussed the current development of those parcels and their plans for the future development. The owner was annexing in to the sewer district so the current homes would be taken off sewer and wells and plugged in to the Bigfork Water and Sewer system. The Pierces own the remainder of the property and also a large [adjoining] property which was zoned R-2. Although they did not have immediate plans for development of their property, they essentially wanted continuity in the zoning since the bulk of their property was already zoned R-2.

**BOARD
QUESTIONS
6:23 PM**

None

**AGENCY
COMMENTS
6:23 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC
COMMENT
6:23 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-19-07)
6:23 PM**

Nogal made a motion, seconded by Sirucek, to adopt staff FZC-19-07 as findings of fact.

**BOARD
DISCUSSION
6:24 PM**

Larsen wondered if they should look at the recommendation BLUAC had given for finding #8. Schlegel expressed that they should honor BLUAC's recommendation.

**MOTION TO
AMEND F.O.F. #8
(FZC-19-07)
6:23 PM**

Schlegel made a motion, seconded by Nogal, to amend Finding of Fact #8 to reflect BLUAC's suggested finding stating:

Effects on motorized transportation systems *may will* be minimal because the Montana Department of Transportation would require new approach permits for a change of use and new approaches, and the County Road and Bridge Department had no concerns with the proposal. *Traffic impact will be assessed with each individual project.*

**BOARD
DISCUSSION
6:24 PM**

None

**ROLL CALL TO
AMEND F.O.F. #8
(FZC-19-07)
6:24 PM**

Motion was passed unanimously on a roll call vote.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-19-07)
6:25 PM**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-19-07)
6:25 PM**

Schlegel made a motion, seconded by Sirucek, to recommend approval of FZC-19-07 to the Board of County Commissioners.

**BOARD
DISCUSSION
6:25 PM**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-19-07)
6:25 PM**

The motion passed unanimously on a roll call vote

**SCOTT RUTA
ZONE CHANGE
(FZC-19-08)
6:26 PM**

A zone change request from Zuzu, LLC (Scott Ruta) for property in the Highway 93 North Zoning District. The proposal would change the zoning on property located at 3327 Highway 93 North near Kalispell, MT from SAG-10 (Suburban Agricultural) to B-3 (Community Business/HO Highway Overlay). The total acreage involved in the request is approximately 5.0 acres.

**STAFF REPORT
6:26 PM**

Erik Mack reviewed staff report FZC-19-08 for the board.

**BOARD
QUESTIONS
6:28 PM**

Stevens wondered how far back the highway overlay went. Staff explained in detail that it was just south of Highway 40 and Whitefish. It did not exist anywhere else. Schlegel wondered if this proposal would be different [than the overlay]. Mack explained it would be the same as what they had in Whitefish but applied to this property only. Anybody who wanted to come forward in the future would be asked to do the same as the highway overlay. Stevens clarified that it was not in place now until it was approved and staff confirmed that was correct.

Adams asked what the intent for the property was. Mack said it was his understanding the intention was to develop a medical facility, office, or professional offices on the property.

**APPLICANT
PRESENTATION
6:29 PM**

Scott Ruta, 59 Dancing Bear Lane, was the owner and applicant. He had purchased the property with the intent of building another physical therapy clinic south of Whitefish as well as possibly building additional space for medical usage. He felt it was an appropriate use of commercial property being that it was on the highway. He requested a B-3 zoning so that there was a broader use of what could be done on that piece of property and wanted it to look professional vs. industrial. He mentioned he was open to the idea of putting in a bike path as well.

**AGENCY
COMMENTS
6:31 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC
COMMENT
6:31 PM**

None

MAIN MOTION TO ADOPT F.O.F. (FZC-19-08) 6:32 PM	Stevens made a motion, seconded by Horn, to adopt staff FZC-19-08 as findings of fact.
BOARD DISCUSSION 6:32 PM	None
ROLL CALL TO ADOPT F.O.F. (FZC-19-08) 6:32 PM	Motion was passed unanimously on a roll call vote.
MAIN MOTION TO RECOMMEND APPROVAL (FZC-19-08) 6:32 PM	Stevens made a motion, seconded by Nogal, to recommend approval of FZC-19-08 to the Board of County Commissioners.
BOARD DISCUSSION 6:33 PM	None
ROLL CALL TO RECOMMEND APPROVAL (FZC-19-08) 6:33 PM	The motion passed on a roll call vote
HARLAN & LOIS COVERDELL ZONE CHANGE (FZC-19-09) 6:35 PM	A zone change request from Harlan & Lois Coverdell for property in the Bigfork Zoning District. The proposal would change the zoning on property located at 7480 Highway 35, Bigfork, MT from <i>SAG-5 (Suburban Agricultural)</i> to B-3 (<i>Community Business</i>) The total acreage involved in the request is approximately 9.592 acres.
STAFF REPORT 6:34 PM	Rachel Ezell reviewed staff report FZC-19-09 for the board.
BOARD QUESTIONS 6:36 PM	None

**APPLICANT
PRESENTATION
6:37 PM**

Harlan Coverdell, 1436 Sorenson Rd, was the owner of the property and also owned the adjacent property. One parcel was B-3 currently and he desired for the properties to be the same. He currently lived out of the area but wanted to make it easier for his children when he was gone. He pointed out that there was similar zoning in the area.

Sirucek pointed out that this area was in the Bigfork Water and Sewer District. Coverdell said he was not in the appropriate zoning as it was SAG-5 presently. Sirucek asked if he could apply to be a part of the district in the future. Coverdell understood it had been proposed in 2005 to become B-3 but they had not done anything since to move towards that [until now].

**AGENCY
COMMENTS
6:39 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC
COMMENT
6:39 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-19-09)
6:40 PM**

Sirucek made a motion, seconded by Nogal, to adopt staff FZC-19-09 as findings of fact.

**BOARD
DISCUSSION
6:40 PM**

Nogal addressed the suggestions made by BLUAC and wondered who would enforce their finding of fact #3 [regarding the esthetics, development, and future architectural plan]. Sirucek was under the impression the committee, who would normally oversee it, no longer existed. Ezell said there had been comment that it could not be enforced but wanted attention brought to it as they would like to see some architectural standards. Larsen questioned if it was an appropriate finding. Ezell said conditions could not be placed on it so they had attached it to a finding.

Larsen felt their point had come across but it would not be an appropriate finding of fact. Stevens said it could not be done without changing the regulations and without going through a hearing. He also felt BLUAC's finding #1 was not appropriate at this time but would be reviewed during a subdivision review.

Larsen wondered if their finding of fact #2 would be ok. The board agreed it would be fine because it would not change any subdivision or zoning regulations. Larsen asked if anybody would be interested in motioning to change finding #2 to reflect the BLUAC's finding. The board discussed it and did not move forward with the modification because it ultimately would not change anything. It was decided to leave it as it was.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-19-09)
6:44 PM**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-19-09)
6:44 PM**

Sirucek made a motion, seconded by Adams, to recommend approval of FZC-19-09 to the Board of County Commissioners.

**BOARD
DISCUSSION
6:45 PM**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-19-09)
6:45 PM**

The motion passed unanimously on a roll call vote

**PURDY 2
SUBDIVISION
(FPP-19-09)
6:45 PM**

A request from Ryan Purdy, with technical assistance from Sam Cordi Land Surveying for preliminary plat approval of Purdy 2 Subdivision, a proposal to create four (4) residential lots on approximately 20 acres. The applicant is proposing individual wells and septic systems and primary access would be off of Mannington Street via Whitefish Stage Road.

**NOGLE
ABSTAINED
FROM HEARING
FPP-19-09
6:45 PM**

Nogle stepped down from hearing FPP-19-09 due to a conflict of interest.

**STAFF REPORT
6:45 PM**

Erik Mack reviewed staff report FPP-19-09 for the board.

**BOARD
QUESTIONS
6:47 PM**

None

**APPLICANT
PRESENTATION
6:47 PM**

Thomas Sibson with Sam Cordi Surveying, 777 Cedars St., represented the applicants. He concurred with the conditions in the staff report. He did question if condition #4 might be a mistake as Smith road did not exist in the

	subject area.
BOARD QUESTIONS <i>6:49 PM</i>	Sirucek asked why they had proposed 5 acre sized lots. Sibson replied it was the minimum allowed by the zoning and the owner never intended to be smaller than.
AGENCY COMMENTS <i>6:50 PM</i>	There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.
PUBLIC COMMENT <i>6:50 PM</i>	None
MAIN MOTION TO ADOPT F.O.F. (FPP-19-09) <i>6:50 PM</i>	Schlegel made a motion, seconded by Horn, to adopt staff FPP-19-09 as findings of fact.
BOARD DISCUSSION <i>6:50 PM</i>	None
ROLL CALL TO ADOPT F.O.F. (FPP-19-09) <i>6:51 PM</i>	Motion was passed unanimously on a 6-0 roll call vote.
MAIN MOTION TO RECOMMEND APPROVAL (FPP-19-09) <i>6:51 PM</i>	Stevens made a motion, seconded by Adams, to recommend approval of FPP-19-09 to the Board of County Commissioners.
BOARD DISCUSSION <i>6:51 PM</i>	Schlegel asked about Condition #4 and if there had been a mistake. Mack said that it was a template error and could be stricken.
MOTION TO STRIKE CONDITION #4 (FPP-19-09) <i>6:52 PM</i>	Schlegel made a motion, seconded by Sirucek, to strike condition #4.
BOARD	None

DISCUSSION

6:52 PM

ROLL CALL TO STRIKE

**CONDITION #4
(FPP-19-09)**

6:52 PM

Motion was passed unanimously on a 6-0 roll call vote.

BOARD DISCUSSION 6:52 PM

Sirucek noted that he had a problem with 5 acre developments with the primary reason being that 80% of the 5 acre lot portions were really just weed patches. Sometimes they were taken care but the vast majority were not handled well by their land owners. He was having a hard time going forward with more 5 acre parcels. The county weed department seemed overwhelmed, understaffed, and underfunded and yet there were more and more areas being developed for them to deal with.

Stevens said there was some truth to that but 2.5 acre parcels created even more weed patches. Sirucek pointed out, as a general observation, the weed issue seemed to be more controlled as the house density seemed to increase in the valley.

Schlegel said that he tended to agree with Sirucek but pointed out that it depended on the landowner. He was ok with the 5 acres.

Stevens said he hated weeds and the biggest offender, as far as noxious weeds were concerned, was Flathead County. He personally had a boom spray which he pulled with his ATV. It was not tough to keep weeds down. He felt the problem was not within the land use regulations but that the Flathead County Parks and Weed Department needed to come up with an effective way to address the issue.

Sirucek said his intention was to identify the problem. Stevens said the problem was that Flathead County Parks and Weed Board may need new members on their board and a new director if they were not doing their job. Adams saw the concern over the weed issue but did not think they could get bogged down on whether or not to approve a 5 acre parcel based on the probability that someone may or may not have weeds. It was still their property and felt that they needed to move forward with it. Larsen said this had been a discussion going on since the 90's. They discussed previous struggles for approval with subdivision and local development. Stevens said that in the end the applicant owned the land and wanted to develop his land in accordance to the regulations. He was not going to go against him. Larsen said that was why they had a lot of SAG-5 in the area; it was very difficult to vote against when they had gone through the public criteria for an appropriate use for that property.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-19-09)
7:00 PM**

The motion passed unanimously on a roll 6-0 call vote

**OLD BUSINESS
7:01 PM**


Stevens asked for an update on the public comment made by Mr. Roper last meeting regarding a conditional use permit violation, for a short term rental, that was next to his property. Mack updated them as to where the county was at in working to have the conditions mediated and in compliance with the original permit.

**NEW BUSINESS
7:01 PM**

None

**ADJOURNMENT
7:03 PM**

The meeting was adjourned on a motion by Schlegel and Nogal at approximately 7:03 p.m. The next meeting will be held August 14, 2019.



Jeff Larsen, Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 8 / 15 /19